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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/668,467	09/23/2003	Sachin Mullick	10830.0100.NPUS00	2942
27927 7590 05/18/2007 RICHARD AUCHTERLONIE NOVAK DRUCE & QUIGG, LLP 1000 LOUISIANA 53RD FLOOR HOUSTON, TX 77002			EXAMINER BIBBEE, JARED M	
			ART UNIT 2161	PAPER NUMBER
			MAIL DATE 05/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/668,467

Applicant(s)

MULLICK ET AL.

Examiner

Jared M. Bibbee

Art Unit

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 2/23/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.


SAM RIMELL
PRIMARY EXAMINER

DETAILED ACTION

Claim Objections

1. Claims 2-12, 14, 16-24, 26-28, 30, 31, 34-46, 48, 50, 52-54, 56, 57, 59, and 60 are objected to because of the following informalities:

All of the dependent claims seem to be missing the word “further”, for example, claim 3 recites the limitation “[t]he method of claim 2, which includes”. This limitation seems to be missing the word “further” after the word “which”. For purposes of examining these claims it is assumed that the claims were meant to recite – which further includes--.

Appropriate correction is required.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. **Claims 1-61** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims lack a useful, concrete, and tangible result within the meaning of 35 USC 101.

The tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus, or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a 101 judicial exception, in that the process claim must set forth a practical application of that 101 judicial exception to produce a real-world result. Providing a benefit to the recipient if the recipient has performed the activity does not produce a real-world result and is clearly just an abstract idea. Therefore the claims do not provide a tangible result.

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In view of the above analysis, applicant's claims are processes, which include a judicial exception therein. Upon review of the claims as a whole, there is no transformation nor do the claims produce a useful, concrete, and tangible result. Accordingly, the claims are non-statutory under 35 U.S.C. 101.

Specifically with regards to the independent claims, these claims either recite the final limitation of "releasing the lock/mutex for the file" or "committing the block to the file" or some variation thereof. In either case, this limitation does not produce a tangible result such that the user is made aware of the release or commit. Also, the claims lack reciting or suggesting that the released or committed file is saved for future use. Examiner suggests adding a final step, which either demonstrates the user is aware of the release or commit or the release/commit file is saved.

With respect to the dependent claims, none of these claims correct the deficiencies of the parent independent claims and are therefore also rejected under 35 U.S.C. 101.

Allowable Subject Matter

4. Claims 1-61 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, set forth in this office action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a) Vahalia et al (US 5,893,140)
- b) Hitz et al (US 5,819,292)
- c) Armangau (US 6,434,681 B1)
- d) Harmer et al (US 7,124,266 B1)

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e) Federwisch et al (US 7,039,663 B1)

Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared M. Bibbee whose telephone number is 571-270-1054. The examiner can normally be reached on IFP.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JMB *gmb*


SAM RIMELL
PRIMARY EXAMINER